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SPITZ TECHNOLOGIES CORPORATION

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - SOUTHERN DIVISION

SPITZ TECHNOLOGIES CORPORATION,

Plaintiff,

vs.

NOBEL BIOCARE USA, LLC, a Delaware limited liability company; NOBEL BIOCARE SERVICES AG, a Swiss corporation, and NOBEL BIOCARE AB, a Swiss corporation,

Defendants.

Case No.: 8:17-cv-00660

Judge:

COMPLAINT FOR PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff SPITZ TECHNOLOGIES CORPORATION ("Plaintiff") hereby alleges, by the undersigned attorneys, upon personal information as to itself, and upon information and belief as to all other allegations, as follows:

THE PARTIES

1. Plaintiff SPITZ TECHNOLOGIES CORPORATION is a corporation organized and existing under the laws of the province of Ontario, Canada, having its principle place of business at 7088 Financial Drive, Mississauga, Canada.

2. On information and belief, Defendant NOBEL BIOCARE SERVICES AG is a Swiss company with a place of business at Balz Zimmermann-Strasse 7, CH-8302 Kloten, SWITZERLAND, NOBEL BIOCARE AB is a Swiss company, with a place of business at Box 5190, 402 26 Vastra Hamngatan 1, 411 17, Goteborg, Sweden. Defendant NOBEL BIOCARE USA, LLC, is a Delaware limited liability company with its principal place of business at 22715 Savi Ranch Parkway, Yorba Linda, California 92887. Hereinafter, NOBEL BIOCARE SERVICES AG, NOBEL BIOCARE AB and NOBEL BIOCARE USA, LLC are collectively referred to as "Nobel" or "Defendants."

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. § 100 et seq.

4. This Court has personal jurisdiction over Defendant, NOBEL BIOCARE USA, LLC as it resides in this judicial district. This Court has personal jurisdiction over Defendants, NOBEL BIOCARE SERVICES AG and NOBEL BIOCARE AB as, on information and belief, they regularly and systematically transacts business in the State of California and within this judicial district. This Court further has personal jurisdiction over defendants as, on

information and belief, they have and are engaged in infringing conduct in California and this judicial district.

5. Venue is proper in the Central District of California pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b), because Defendant, NOBEL BIOCARE USA, LLC resides in this judicial district, this Court has personal jurisdiction over Defendants and Defendants have committed acts of infringement in this judicial district.

FACTS COMMON TO ALL COUNTS

6. United States Patent No. 7,008,227 ("the '227 Patent"), titled "Self – Drilling Implant," was duly and legally issued by the United States Patent and Trademark Office on March 7, 2006. A true and correct copy of the '277 Patent is attached hereto as Exhibit 1. Plaintiff is the assignee and owner of the '227 patent and all rights arising therefrom.

7. The '227 Patent is directed towards, *inter alia*, a dental implant which is self-drilling and self-tapping.

8. More particularly, the '227 patent claims a dental implant having body and head portions. The body portion has a tip portion and external threads including a lead thread portion, an intermediate thread portion, and a distal thread portion. The threads of the lead, intermediate and distal thread portions comprise a cutting edge so that the implant is self-tapping. The head portion of the implant has a central bore with an internal thread for receiving a dental prosthesis. The tip portion of the implant has at least one cutting edge for cutting bone to form a bore as the implant is rotated into position in the patient's mouth. The cutting edge is formed at the generally longitudinal axis of the implant and extends radially outward such that upon rotation of the implant, the implant is self-drilling. The implant also includes at least one flute having a first end adjacent to the cutting

edge so that upon rotation of the implant bone cuttings may move up and out of the bore created by the implant.

9. Defendants do not have a license to make, use, sell or import a dental implant that falls within the scope of the ’227 Patent’s claims.

10. On information and belief, Defendants make, use, sell, offer for sale, and import into the United States a dental implant under the tradename NobelActive which infringes one or more claims of the ’227 patent and have derived and received, and will continue to derive and receive income and profits from its infringing activity to the monetary damage of Plaintiff.

11. The NobelActive implant has body and head portions. The body portion has a tip portion and external threads including a lead thread portion, an intermediate thread portion, and a distal thread portion. The threads of the lead, intermediate and distal thread portions comprise a cutting edge so that the implant is self-tapping. The head portion of the implant has a central bore with an internal thread for receiving a dental prosthesis. The tip portion of the implant has at least one cutting edge for cutting bone to form a bore as the implant is rotated into position in the patient’s mouth. The cutting edge is formed at the generally longitudinal axis of the implant and extends radially outward such that upon rotation of the implant, the implant is self-drilling. The implant also includes at least one flute having a first end adjacent to the cutting edge so that upon rotation of the implant bone cuttings may move up and out of the bore created by the implant.

Count 1

Patent Infringement of U.S. Patent No. 7,008,227

12. Plaintiff repeats and re-alleges each of the allegations in paragraphs 1-11 as though fully set forth herein.

13. Defendants have infringed, and are continuing to infringe, the ’227 patent, by making, using, selling, offering to sell in the United States or importing into the United States a product, including but not limited to the Nobel Active dental implant which incorporates the inventions claimed in the ’227 patent.

14. Defendants’ infringement will continue unless enjoined by the Court.

Count 2

Induced Infringement of U.S. Patent No. 7,008,227

15. Plaintiff repeats and re-alleges each of the allegations in paragraphs 1-14 as though fully set forth herein.

16. Defendants, by selling a dental implant which incorporates the inventions claimed in the ’227 patent, Defendants have knowingly, actively and with specific intent to do so, have induced others to directly infringe the claims of the ’227 patent.

17. Defendants’ infringement will continue unless enjoined by the Court.

Count 3

Contributory Infringement of U.S. Patent No. 7,008,227

18. Plaintiff repeats and re-alleges each of the allegations in paragraphs 1-17 as though fully set forth herein.

19. Defendants have contributorily infringed the ’227 patent by using, selling or offering to sell to others dental implant products, that infringe the claims of the ’227 patent that are not suitable for non-infringing use.

20. Defendants’ infringement will continue unless enjoined by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for Judgment against Defendants as follows:

1. That the Court determine that Defendants have infringed and will continue to infringe one or more claims of United States Patent No. 7,008,227.

2. That the Court determine that Defendants have induced others, and will continue to induce others, into infringing one or more claims of United States Patent No. 7,008,227.

3. That the Court determine that Defendants have contributorily infringed and will continue to contributorily infringe one or more claims of United States Patent No. 7,008,227.

4. That the Court award all lawful damages to Plaintiff including damages no less than a reasonable royalty arising out of Defendants infringement of United States Patent No. 7,008,227, plus interest on such damages.

5. That the Court permanently enjoin Defendants from further infringement for the remaining life of Unites States Patent No. 7,008,227.

6. That the Court determine this case "exceptional" within the meaning of 35 U.S.C. § 285 and order Defendants to pay Plaintiff's reasonable attorney's fees.

7. The Court award Plaintiff its costs; and

8. Such further relief as this Court may deem equitable.

Dated: April 11, 2017

MICHELMAN & ROBINSON, LLP

By: */s/ Jan P. Weir*
Jan P. Weir
Kathrine J. Brandt
Attorneys for Plaintiff
SPITZ TECHNOLOGIES CORPORATION

DEMAND FOR JURY TRIAL

Pursuant to FED. R. CIV. P. 38, Plaintiff hereby demands a trial by jury on its claims.

Dated: April 11, 2017

MICHELMAN & ROBINSON, LLP

By: */s/ Jan P. Weir*
Jan P. Weir
Kathrine J. Brandt
Attorneys for Plaintiff
SPITZ TECHNOLOGIES CORPORATION